

REMARKS

1. Amendments to the claims

Claims 1, 3-6 and 10-17 are pending in the application. With the present response Applicants amend claims 1 and 11. Support for these amendments can be found, for example, at page 4 line 7 of the application as filed.

2. 35 USC 103 (a)

2.1 In sections 2 and 3 of the Action mailed April 23, 2010, the Examiner still rejects claims 1, 3-6 and 12-14 under 35 USC 103(a) as being unpatentable over Glushko in view of Bawendi and further in view of Fuller. In section 4, the Examiner also rejects claim 10 on the basis of Glushko, Bawendi and Metz. Finally, in section 5, the Examiner rejects claim 11 and 15-17 on the basis of Glushko, Bawendi and Wenzel.

2.2 In section 6 of the Action ("Response to Arguments"), the Examiner opines that

"With all due respect, it's not clear why applicant believes the combination wouldn't work. All that is required is substituting the quantum dots taught by Bawendi for the fluorescent material used in Glushko. Applicant has not identified any reason why this substitution wouldn't be within the ability of one of ordinary skill in the art

In any case, the question is not whether Bawendi's disclosed operation would be frustrated, but whether Glushko, the base reference, would still work after substituting the quantum dots taught by Bawendi. The preponderance of evidence suggests that it would ".

Applicants have read in detail the Examiner's arguments but still submit that the combination of Glushko and Bawendi wouldn't work for the following reasons.

In particular, Applicants submit that Glushko discloses to store information based on the amount of an isomeric form of fluorescent material. See column 6, lines 10-57 of Glushko which recites that "The information is stored within the medium as numerical values associated with the amount of one of the isomeric forms of active medium contained within elemental cells distributed within the active medium. By virtue of the present invention the amount of a particular form of the medium can be changed and so the numerical values associated therewith. The amount of an isomeric form within an elemental cell can be defined either by the concentration of molecules which depends on the amount of molecules within the cell or by the dimensions of the cell, which, in turn, are limited by the diffraction of illuminating radiation. "

Therefore, following the Examiner's rationale of Section 6 of the Action that "All the combination requires is using the same sort of "collection of quantum dots" (as applicant terms it) taught by Bawendi in multiple data locations on the medium instead of in a single bar code as in Bawendi alone.", a person skilled in the art would have replaced the amount of an isomeric form of fluorescent material of Glushko with the quantum dots of Bawendi.

However, in doing so, Applicants submit that the person skilled in the art would not have obtained a "*method of storing data... to represent data by the presence and absence of said colors...*" as recited in claims 1 and 11 for the following reasons.

In fact, Bawendi (see column 5 lines 45-65 already mentioned by the Examiner, column 6 lines 28-48 and column 10 lines 26- 42 of Bawendi) discloses analysis of spectral emissions of the quantum dots to check the presence of characteristic wavelengths, and identification or location of an item or matter of interest, which is strictly associated with such characteristic wavelengths.

The Examiner appears to say that a document describing the analysis of the spectral emissions of the quantum dots implicitly describes "*to represent data by the presence and absence of said colors*". Applicants disagree with such line of reasoning. Where is the suggestion that would teach the person skilled in the art that Bawendi analyzes spectral emission to identify the absence of a defined color and to store information based on this absence?

In other words, which, in Bawendi, is the information associated with the absence of color?

Applicants submit that, when Bawendi analyzes the spectral emission of the quantum dots, Bawendi does not analyze the absence of a certain color but only the presence of said color. Any person of ordinary skill in the art would understand that the analysis of the absence of a certain color to identify an item does not make any technical sense.

In other words, in Bawendi, only the presence of defined characteristic wavelengths provides information regarding an item. Therefore, Bawendi does not teach at all *"to represent data by the presence and absence"* of defined characteristic wavelengths.

In fact, the absence of characteristic wavelengths does not allow to identify any item and therefore *"to represent any data"*.

Moreover Applicants note that, if a person skilled in the art would have replaced the amount of an isomeric form of fluorescent material of Glushko with the quantum dots of Bawendi, that person would have only obtained many spectra of defined characteristic wavelengths, in particular one spectrum of quantum dots for each cell of Glushko.

In other words, a person skilled in the art would have obtained a method of storing data including analysis of a plurality of spectral emissions. However, analyzing a plurality of spectral emissions has nothing to do with *"to represent data by the presence and absence of said colors"*.

2.3 In addition to the above arguments, with the present response, Applicants amend claims 1 and 11 and include the recitation *"wherein the presence or absence of a color represents a bit of data "*.

As already mentioned above, Glushko describes storing of information based on the amount of an isomeric form of fluorescent material and does not disclose at all any *"presence or absence of*

a color". Bawendi only discloses to analyze a spectral emission of quantum dots, without representing data from the "*presence or absence of a color*".

In addition, both Glushko and Bawendi are absolutely silent about any bit of data associated with the presence or absence of a color, and therefore do not disclose that "*the presence or absence of a color represents a bit of data*".

3. (requests)

In view of all of the previously presented considerations, Applicants submit that amended claims 1 and 11 and dependent claims 3-6, 10 and 12-17 are patentable. Reconsideration and allowance of all the claims are respectfully solicited.

4. (fees)

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 50-4194. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection herewith may be charged to deposit account no. 50-4194. Please ensure that the Attorney Docket Number is referred to when charging any payments or crediting any overpayments for this case.

I hereby certify that this correspondence is
being electronically transmitted on

July 21, 2010
/ Alessandro Steinfl /

(signature of person transmitting)

Respectfully submitted,

/Alessandro Steinfl Reg. No. 56,448/

Alessandro Steinfl
Reg. No. 56,448
STEINFL & BRUNO
301 N Lake Ave Ste 810
Pasadena, CA 91101
(626) 792-0536 voice
(626) 792-1342 facsimile